

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for:

Alden J. Blowers

Serial No. 10/678,326

Filed: October 3, 2006

For: METHOD FOR PROVIDING
COMPREHENSIVE ACH VENDOR
SERVICES

Examiner: Paul W. Shumate

Art Unit: 3693

Confirmation No. 2584

DECLARATION PURSUANT TO 37 C.F.R. §1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Alden J. Blowers, hereby declare that:

1. I am a chief executive officer of Cachet Banq, Inc.
2. I am the Inventor and owner of the above identified patent application
3. I have reviewed U.S. Patent 6,411,938 issued to Gates et al ("Gates"), U.S. Patent 5,987,433 issued to Crapo ("Crapo"), U.S. Patent 5,117,356 issued to Marks ("Marks") and Alexander, Marcus and Young, "Strategic Outsourcing," Long Range Planning, 29 February 1996:116-119 ("Alexander") and the rejections under 35 U.S.C § 103, asserted by the U.S. Patent and Trademark Office against all of the pending claims of the present application, namely claims 1-22 and believe that these claims should be considered non-obvious over Gates, Crapo, Marks and Alexander based on the evidence provided herewith.

4. Our product FLEXACH® encompasses implementations that cover each of the elements of the pending claims, including “receiving at least one ACH transaction from one of a payroll vendor and a client of a payroll service” where the payroll service provider “is separate from the payroll vendor,” “verifying the at least one ACH transaction by the payroll service provider,” “executing the at least one ACH transaction by the payroll service provider” and “limiting financial risk.” Other elements included in the FLEXACH® service include “checking the ACH data for erroneous data,” “determining a risk management scheme for the ACH related data to protect the payroll vendor,” “processing the ACH related data by a payroll service provider according to the risk management scheme, the payroll service provider separate from the payroll vendor,” “using a double entry accounting system in processing transactions” and retesting various recited aspects of the files prior to processing amongst the other aspects of the FLEXACH® service.

5. The commercial success of this product is evidence of the non-obviousness of the claimed invention. The attached graphs (Exhibits A-D) show the growth of our business through contracts with clients and the client transactions through our FLEXACH® service. We began offering the FLEXACH® service in February 2004. From 2004 to the present day our FLEXACH® service has been enormously successful. The client numbers depicted in Exhibit A are the total number of clients contracting for the use of FLEXACH® during the respective years. The client numbers have grown dramatically each year through to the present.


Similarly, the revenues generated from the FLEXACH® service (Exhibit B) have followed a similar course of dramatic increase from the point of the introduction of the FLEXACH® service. Exhibits C and D demonstrate that not only have the number of customers utilizing the FLEXACH® service increased, but also their reliance on the features of service have dramatically increased.

Cachet Banq and the FLEXACH® service do not have other market advantages to leverage to create the commercial success that is demonstrated by the FLEXACH® service in the attached Exhibits. To the contrary, ADP, Paychex and Ceridian dominate the payroll services market. Thus, the commercial success of the FLEXACH® service is primarily based on the features discussed above and recited in the claims and not based on extrinsic factors.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issued thereon.

Respectfully submitted,

Dated: 5/15, 2009


Alden J. Blowers

CEO Cachet Banq, Inc.

Enclosures: Exhibit A (Total Number of Customers Graph)
Exhibit B (Total Revenues Graph)
Exhibit C (Total Number of Transactions Graph)
Exhibit D (Dollar Value of Processed Transactions Graph)

EXHIBIT A

Total Number of Clients (FEINs) Processed
2004-2008

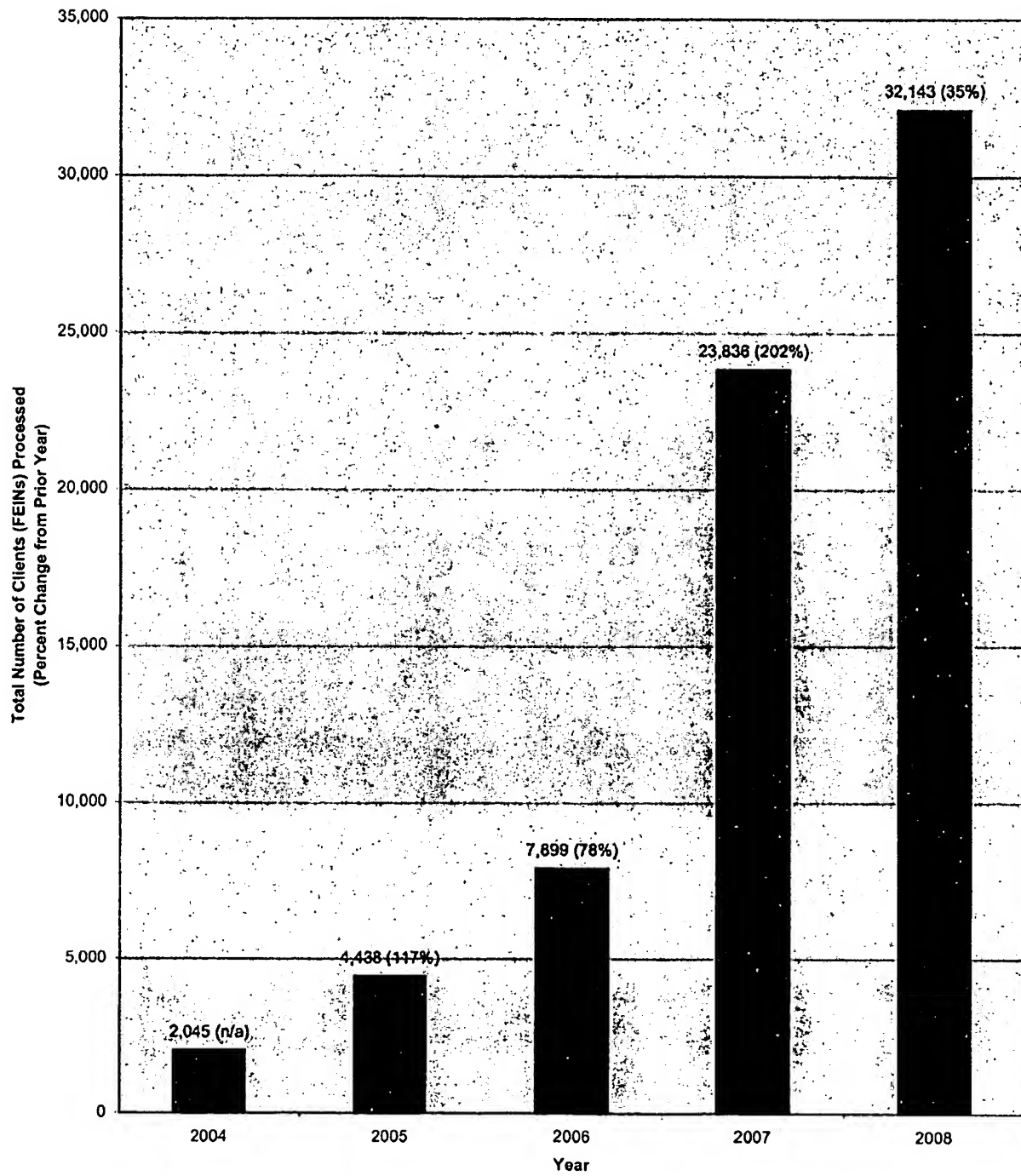


EXHIBIT B

**Total Revenue
2004-2008**

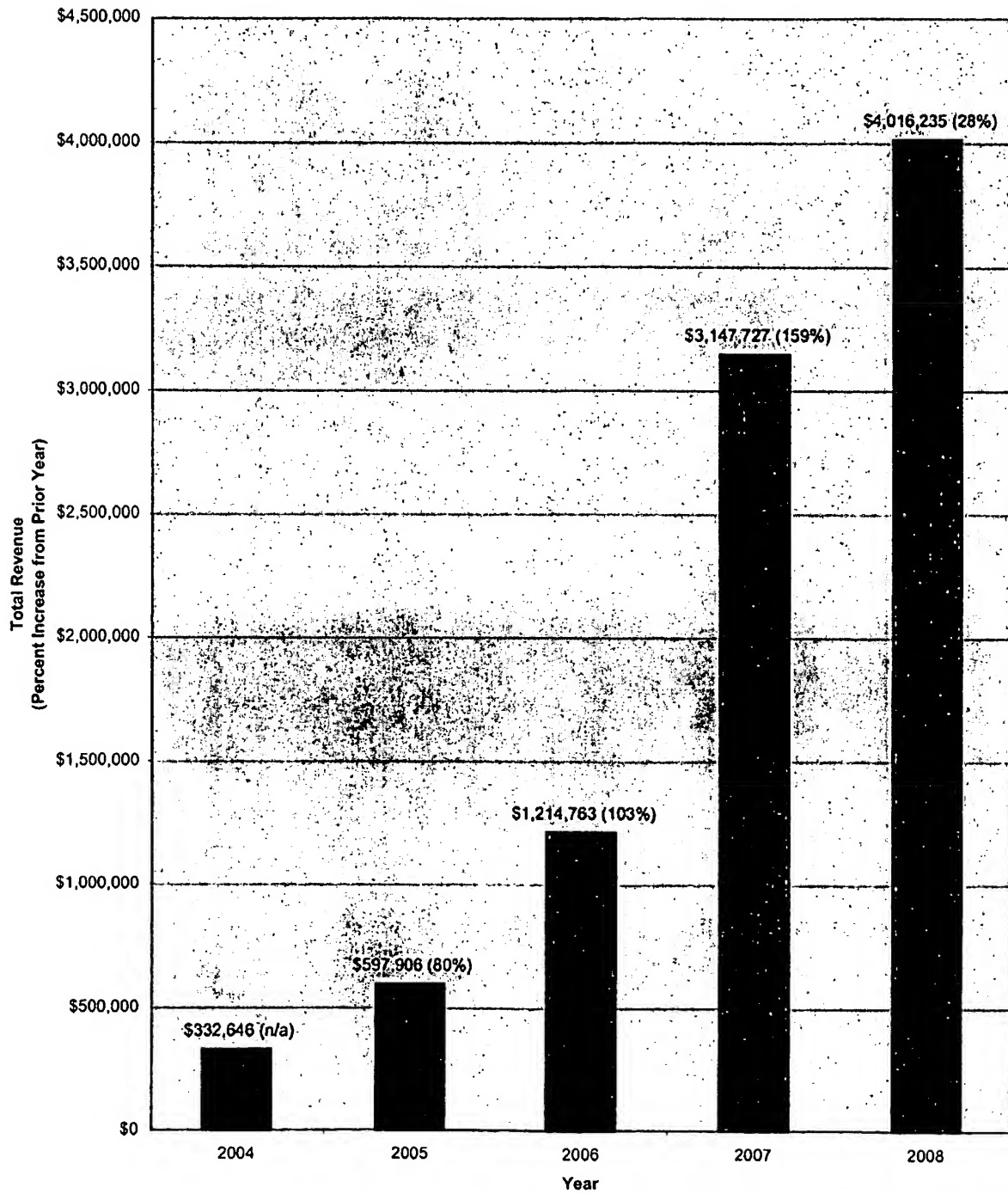


EXHIBIT C

Total Number of Transactions Processed
2004-2008

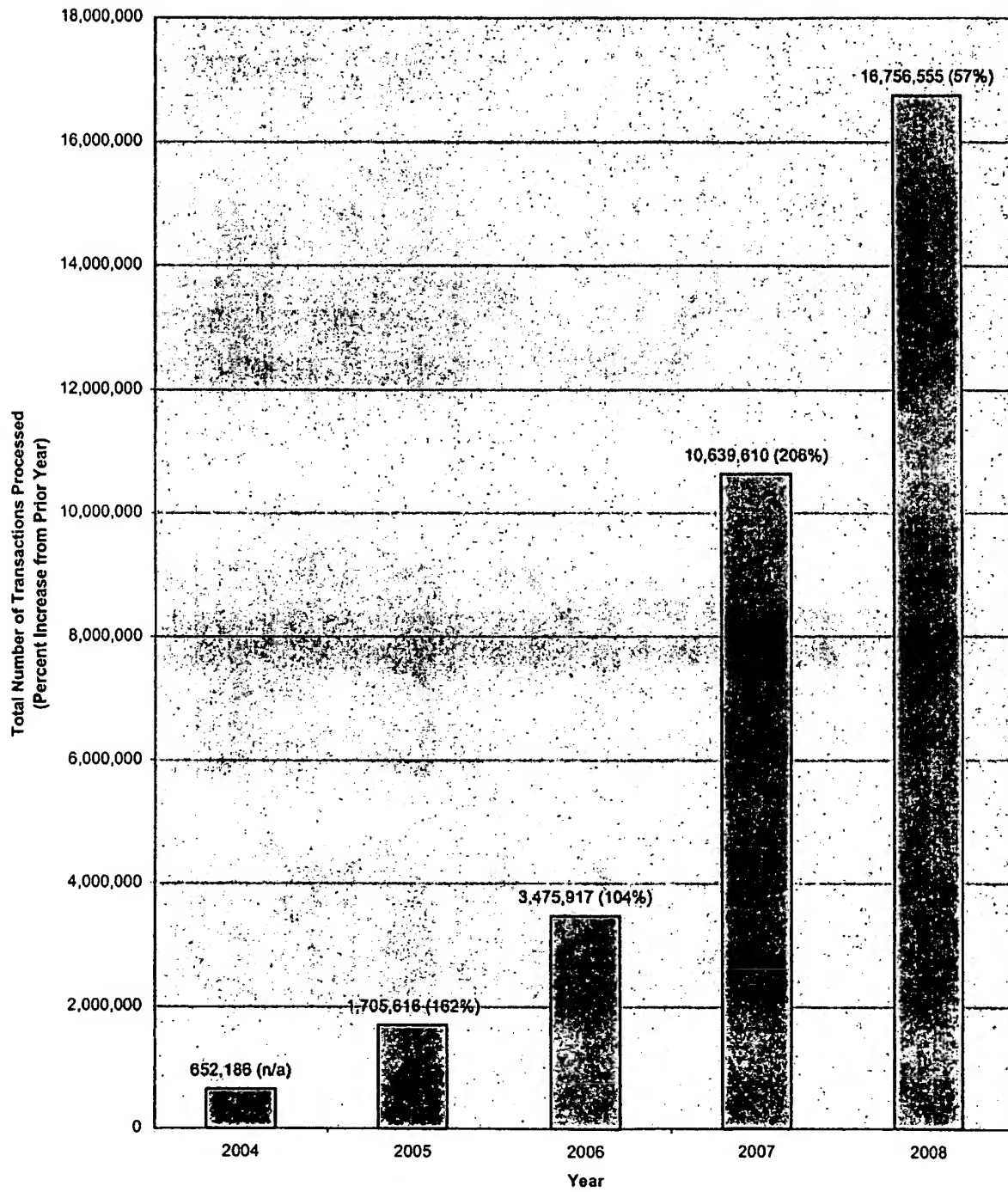


EXHIBIT D

Dollar Value of Transactions Processed
2004-2008

